

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

ROBERT S. DORSEY, II,

Plaintiff

v.

REBECCA PETER, LPN., *et al.*,

Defendants

Civil No. 3:19-cv-0113

(Judge Mariani)

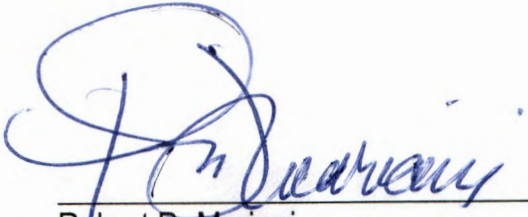
ORDER

AND NOW, THIS 21<sup>ST</sup> DAY OF FEBRUARY 2020, upon consideration of

Defendants' motion to dismiss, and for summary judgment, and for the reasons set forth in the Court's Memorandum of the same date, **IT IS HEREBY ORDERED THAT:**

1. Defendants' motion to dismiss and for summary judgment, (Doc. 23) is **GRANTED, in part** and **DENIED, in part**, as follows:
  - a. The motion for summary judgment is **GRANTED** as to Plaintiff's unexhausted, and untimely, *Bivens* retaliatory transfer claim and as to Plaintiff's FTCA retaliation claim;
  - b. Defendants' motion to dismiss and for summary judgment (Doc. 23) is **DENIED** as to the exhaustion of Plaintiff's *Bivens* action challenging the alleged denial of the April 18, 2016 Retinopathy examination claim, and as to Plaintiff's failure to file a certificate of merit in support of his FTCA claim.
2. Plaintiff's unexhausted, and untimely, *Bivens* retaliatory transfer claim and Plaintiff's FTCA retaliation claim are **DISMISSED WITH PREJUDICE**

3. Defendants shall **FILE** an answer in accordance with the Federal Rules of Civil Procedure.



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Robert D. Mariani  
United States District Judge